

Amendment to the Drawings

Fig. 8 is amended to include identifier 284. Therefore, the attached Replacement Sheet, which includes Figs. 7 and 8, replaces the replacement sheet filed on April 12, 2004.

REMARKS

Summary of the Office Action

Two documents (FR 1,077,898 and EP 0 150 666 included with the Information Disclosure Statement ("IDS") filed on February 16, 2005, were not considered by the Examiner, because English-language translations were allegedly not provided in accordance with 37 C.F.R. § 1.98(a)(3).

The drawings are also objected to under 37 C.F.R. § 1.83(a) for allegedly not showing every feature of the invention specified in the claims.

Claims 1 and 20 were objected to for allegedly having various informalities.

Claims 1-2 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 4,065,360 to *Kreb*.

Claims 1-3 and 9 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,115,816 to *Lee*.

Claim 4 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Lee*.

Claims 5-8 and 10-24 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Lee* in view of U.S. Patent No. 5,098,416 to *Imonti*.

Summary of the Response to the Office Action

Applicants amended the drawings and added new claims 25-27 to further define the invention. No new matter has been added. Accordingly, claims 1-27 are pending for consideration.

Interview Summary

Pursuant to M.P.E.P. § 713.04, Applicants provide the following summary of the personal interview conducted on July 21, 2005. Applicants' representative demonstrated an exemplary device and explained its operation. During subsequent discussion, the parties discussed the scope of *Kreb* and *Lee*. In particular the parties discussed whether plunger 13 of *Lee* represented a "fluid conduit." Applicants thank the Examiner and her supervisor for courtesies and assistance provided during the personal interview.

Information Disclosure Statement

Page 2 of the Office Action dated May 26, 2005, indicates that the documents FR 1,077,898 and EP 0 150 666, which were submitted with the IDS dated February 16, 2005, were not considered by the Examiner. Specifically, the Office Action states that "there is no English translation" of the documents. Applicants request that the Examiner consider the documents for at least the following two reasons.

First, pursuant to the 37 C.F.R. § 1.98 the relevance of each document was provided on page 2, items 3 and 4 of the IDS. Applicants note that the requirement under 37 C.F.R. § 1.98 for a "concise explanation of the relevance" of a document not in the English language does not mandate the submission of English-language translation. Second, with the IDS, Applicants provided copy of a PCT International Search Report dated December 15, 2004, from a counterpart application. Applicants note that "[w]here the information listed is not in the English language, but was cited in a search report or other action by a foreign patent office in a counterpart foreign application, the requirement for a concise explanation of relevance can be satisfied by submitting an English-language version of the search report or action which indicates the degree of relevance found by the foreign office." MPEP § 609.04(a).

Therefore, Applicants respectfully request that the Examiner consider FR 1,077,898 and EP 0 150 666 and evidence that consideration by making appropriate notations on the PTO Form 1449 that was provided with the IDS on February 16, 2005.

Drawings Comply with 37 C.F.R. § 1.83(a)

The drawings are objected to under 37 C.F.R. § 1.83(a) for not showing: the “second housing portion” and “first and second end” of the fluid conduit of independent claim 1; the “first receptacle proximate the first end” of claim 5; and the “releasable latch” of claim 20. Applicants respond as follows.

With respect to the “second housing portion” of independent claim 1, Fig. 4, for example, shows two exemplary housing portions (e.g., first and second housing portions having a first and second housing walls 214, 214’), connected by hinge straps 222, 224 that form the exemplary housing 202 shown in Fig. 2.

With respect to the “first and second end” of the fluid conduit of claim 1, the fluid conduit 281 shown in Fig. 3 may include, for example, a first and second fluid ends 210, 212 shown in Fig. 2.

With respect to the “first receptacle proximate the first end” of claim 5, the attached replacement sheet includes changes to Fig. 8 to address the Examiner’s concerns. The Replacement Sheet, which includes Figs. 7 and 8, replaces the replacement sheet filed on April 12, 2004. In Fig. 8, identifier 284 was added.

With respect to the “releasable latch” of claim 20, Fig. 2 shows an exemplary embodiment comprising latch 226.

The Objections to Claims 1 and 20

Claims 1 and 20 were objected to for allegedly having various informalities.

With respect to claim 1, the Office Action indicates that the “housing portions that define a cavity” and “actuator” are not disclosed in the specification or drawings. In response, Applicants note that paragraph 28 of the specification states: “As shown in Figs. 2 and 3, the inner surfaces 216, 216’ cooperate to define a cavity in which the fluid conduit 208 is received and retained.” Further, paragraph 53 of the specification discusses buttons 206 shown in Fig. 2.

With respect to claim 20, the Office Action indicates that the specification refers to a “latching tab 246” while claim 20 refers to a “releasable latch.” First, MPEP § 2173.01 states that an “Applicant may use functional language, alternative expressions, negative limitations, or any style of expression or format of claim which makes clear the boundaries of the subject matter for which protection is sought.” (emphasis added).

Claim Interpretations

On page 4 of the Office Action, the Examiner provides interpretations for the terms “first and second housing portions” and “actuator.” Applicants object to this attempt to redefine the scope of the Applicants’ claimed invention to certain embodiments disclosed in the specification. For example, the “first and second housing portions” shown in Figs. 2-6 may alternatively include housing walls 214, 214’. Further, the term “actuator” should not be improperly limited to an embodiment disclosing buttons 206. Indeed, MPEP § 2173.04 states that the “[b]readth of a claim is not to be equated with indefiniteness.” And the Examiner must give pending claims their broadest reasonable interpretation. MPEP § 2111.

The Rejections of Claims 1-14

Claims 1-2 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by *Kreb*. Claims 1-3 and 9 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by *Lee*. Claim 4 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over

Lee. And claims 5-8 and 10-14 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Lee* in view of *Imonti*. Applicants respectfully traverse the rejections for at least the following reasons.

Applicants respectfully assert that the rejections should be withdrawn because the cited references do not teach or suggest each feature of independent claim 1. For example, independent 1 recites, *inter alia*, “a removable fluid conduit having a first end for attaching to the aspiration cylinder and a second end for attaching to a cannula.” According to the Office Action, the syringe chamber 12 of *Kreb* represents a “removable fluid conduit.” Applicants disagree. The syringe disclosed in *Kreb* has a housing 10 that includes a syringe chamber 12. The syringe chamber is not removable and it is not connected to an aspiration cylinder. In fact, syringe chamber 12 is a cylinder.

The Office Action also contends that the plunger 13 of *Lee* is a “fluid conduit.” In fact, plunger 13 shown in Fig. 1 controls the volume of fluid in barrel 12. Col. 4, ll. 38-39. Furthermore, as shown in the figures, plunger 13 does not have a “second end for attaching to a cannula.” As disclosed at col. 4, ll. 42-44, the needle 11 is attached to hub 20.

For at least these reasons, Applicants respectfully assert that the rejections of independent claim 1 should be withdrawn because *Kreb* and *Lee* not teach or suggest each feature of independent claim 1. Furthermore, Applicants respectfully assert that dependent claims 2-14 and 25-27 are allowable at least because of their dependence from independent claim 1 and the reasons set forth above.

The Rejections of Claims 15-24

Claims 15-24 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Lee* in view of *Imonti*. Again Applicants respectfully traverse the rejections for at least the following reasons.

Applicants respectfully assert that the rejections should be withdrawn because the cited references do not teach or suggest each feature of independent claim 15. For example, independent claim 15 recites, *inter alia*, “fluid conduit including a flexible conduit portion.” The Office Action as page 8 asserts that *Lee* discloses fluid conduit 13. Again, Applicants disagree. Plunger 13 is not a flexible “fluid conduit.” As noted above, it is simply a device for controlling the volume and pressure of the fluid in barrel 12.

For at least these reasons, Applicants respectfully assert that the rejection of independent claim 15 under 35 U.S.C. § 102(b) should be withdrawn because the applied references do not teach or suggest each feature of independent claim 15. Furthermore, Applicants respectfully assert that dependent claims 16-24 are allowable at least because of their dependence from independent claim 15 and the reasons set forth above.

Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and the timely allowance of all pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants’ undersigned representative at 202.739.5271 to expedite prosecution.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required,

including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. §1.1 36(a)(3).

Respectfully submitted,

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